

REMARKS

The Official Action of April 16, 2008, and the prior art cited and relied upon therein have been carefully studied. The claims in the application remain claims 1-4 and 6-17, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

Claims 1-4 and 6-17 remain in the application for consideration.

The Examiner has rejected claims 1-4, 6-8 and 12 under 35 U.S.C. §103(a) as being unpatentable over Rogozinski '927 in view of Huebner '676, claims 9 and 10 under 35 U.S.C. §103(a) as being obvious over Rogozinski '927 and Huebner '676 in further view of Zucherman '948, claim 11 under 35 U.S.C. §103(a) as being obvious over Rogozinski '927 and Huebner '676 in further view of Lawson '423, claims 13-14 and 16 under 35 U.S.C. §103(a) as being obvious over Rogozinski '927, Huebner '676 and Zucherman '948 as applied to claims 1 and 9-10 above in further view of Karpf '166, claim 15 under Rogozinski '927, Huebner '676, Zucherman '948 and Karpf '166 as applied to claim 13 and further in view of Lawson '423, and claim 17 under Rogozinski '927, Huebner '676, Zucherman '948 and Karpf '166 as applied to claims 13-16 above, in further view of Mast

'784. Applicant respectfully traverses all of these rejections as applied to claim 1 as amended.

As the Examiner will note, claim 1 has been amended to provide recess 20 in at least one intervertebral implant which opens to the outside of the implant and serves to receive bone or bone replacement material. This is disclosed in the application on page 8, first sentence, and clearly shown in the drawing.

The at least intervertebral is inserted into the intervertebral disk space between adjacent vertebral implant wherein two plates are connected to the at least one intervertebral implant and to the adjacent vertebral. This is disclosed in the application on page 7, lines 26-30. The at least one intervertebral implant extends transversely to the two plates and the two plates are connected to the at least one intervertebral implant. This is shown, for example, in Figs. 1, 4-7 and 10.

In comparison, Rogozinski does not disclose or teach an intervertebral implant having a recess which opens to an outside of the implant and serves to receive bone or bone replacement material. Further, Rogozinski does not disclose nor teach an intervertebral implant, which is or could be inserted into an intervertebral disk space. The parts 220 and 240 are links and cannot be inserted into an intervertebral

disk space. Parts 484 as shown in Fig. 7 are hook or pad portions and are not inserted in the intervertebral disk space.

Further, Applicant submits that Huebner also does not disclose an intervertebral implant which can be inserted into an intervertebral disk space as claimed.

Applicant respectfully submits that the claimed invention patentably defines over the cited prior art combination at least on the basis of the structural differences identified above.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By   
Norman J. Latker  
Registration No. 19,963

NJL:ma  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\I\isle\Magerl1\pto\2008-07-14-Amendment.doc